

**ShawPittman LLP**

A Limited Liability Partnership Including Professional Corporations

ORIGINAL

Millie Domenech  
202 663-8374  
millie.domenech@shawpittman.com

**RECEIVED**

JUL 11 2001

July 11, 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYBy Hand Delivery

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W., Room TW-A325  
Washington, DC 20554

Re: EB Docket No. 01-66/RM-9156; RM-9215  
**Joint Reply Comments of the Named State Broadcasters Associations**

Dear Ms. Roman Salas:

Enclosed please find an original plus nine copies of the Joint Reply Comments of the Named State Broadcasters Associations in the above-referenced docket. Please contact the undersigned should you have any questions regarding this filing.

Sincerely,



Millie Domenech

Document #: 1125692 v.2

No. of Copies rec'd CH9  
List A B C D E

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**ORIGINAL**  
**RECEIVED**  
**JUL 11 2001**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**OFFICE OF THE SECRETARY**

**In the Matter of**

Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System )  
)  
) EB Docket No. 01-66  
) RM-9156  
) RM-9215  
)  
)  
)  
)  
)

To: The Commission

**JOINT REPLY COMMENTS OF THE NAMED STATE BROADCASTERS  
ASSOCIATIONS**

The Arizona Broadcasters Association, Arkansas Broadcasters Association, Colorado Broadcasters Association, Connecticut Broadcasters Association, Florida Association of Broadcasters, Georgia Association of Broadcasters, Illinois Broadcasters Association, Iowa Broadcasters Association, Kansas Association of Broadcasters, Kentucky Broadcasters Association, Maine Association of Broadcasters, Minnesota Broadcasters Association, Nebraska Broadcasters Associations, Nevada Broadcasters Association, New Mexico Broadcasters Association, North Dakota Broadcasters Association, Ohio Association of Broadcasters, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, South Dakota Broadcasters Association, Texas Association of Broadcasters, Vermont Association of Broadcasters, Wisconsin Broadcasters Association, and the Washington State Association of

Broadcasters (each, a “State Association” and collectively, the “State Associations”), by their attorneys and pursuant to Sections 1.415 and 1.419 of the Commission’s rules, hereby submit their Joint Reply Comments to the *Notice of Proposed Rule Making (“NPRM”)*, FCC 01-88, in the above-referenced docket, released March 20, 2001, pertaining to the Commission’s Emergency Alert System (“EAS”) regulations.

## **I. INTRODUCTION**

As these State Associations noted in their opening Joint Comments in this proceeding, each State Association has been established to protect and enhance the service and business of the free, over-the-air broadcast industry within its borders. In those Joint Comments, the State Associations commended the Commission for its efforts to improve EAS but cautioned the Commission to avoid regulations, system designs and implementation requirements that unduly increase the cost of voluntary participation by stations. Many of those who have filed comments in this proceeding reflect agreement with the principle that any purported improvements to EAS should be weighed against the cost to broadcasters of making any necessary changes and the impact of such costs on the continued voluntary participation of broadcasters in state and local EAS.

The State Associations hereby submit their Reply Comments on the specific rule changes proposed in the NPRM.

## **II. DISCUSSION**

### **I. Naming Convention**

As explained in their initial Joint Comments, the State Associations do not support the naming convention proposed by NWS. As noted by SBE in its Comments, this proposal does

nothing to improve EAS.<sup>1</sup> Furthermore, there is no evidence showing that such a naming convention is necessary or appropriate. As noted by some commentators, the cost to broadcasters of making the necessary changes to EAS equipment would be in the \$100-\$200 range, not including shipping and handling.<sup>2</sup> It is also not yet known whether hardware modifications will be necessary. The State Associations cannot support unnecessary rule changes that would require broadcasters to spend additional money on EAS equipment modifications.

The State Associations urged the Commission not to adopt new codes while retaining existing codes for certain weather emergencies. In its comments, NWS informed the Commission that current EAS protocol does not allow for more than one event code to a message. The Commission should therefore not implement this proposal.

## 2. Event Codes

Many commentators are of the same view as the State Associations that the Commission should adopt a new event code for abducted child alerts.<sup>3</sup> Most of those filing comments suggested the use of the code, “Abducted Child Statement.” The State Associations, as explained in its comments, believe that the use of “Child Abduction Emergency” would serve the same principle purpose while at the same time underscoring that the code is to be used only when a child’s life is believed to be in danger.

---

<sup>1</sup> SBE Comments, at 7.

<sup>2</sup> Comments of TFT, Inc., at 3.

<sup>3</sup> See e.g., Comments of Small Business in Telecommunications, Comments of the Greater Metropolitan Washington Area AMBER Plan, NAB Comments, Comments of the National Center for Missing and Exploited Children, Comments of Range Telecommunications, Comments of the Dallas/Fort Worth Amber Plan, Comments of Representative Martin Frost, and the Comments of the Oklahoma Amber Plan Committee.

3. Cancellation Codes

In its initial Joint Comments, the State Associations offered qualified support for the use of cancellation codes. SBE clarified its position on this issue in their comments. Rather than requesting that a cancellation code be adopted for each and every event code, SBE asks that cancellation codes be adopted for specific codes where a clear advantage can be demonstrated.<sup>4</sup> Therefore, although, as some commentators noted, EAS alerts do have a fixed end time, there are certain emergencies where the public interest would be benefited by being alerted to the fact that the emergency has ended. Thus, the State Associations support the use of a cancellation code for certain EAS alerts such as EVI (Evacuation) and TOM (911 phone outage), for example. Limiting cancellation codes to specific emergencies addresses the concerns of those commentators who noted that adoption of a cancellation code for every event code may lead to increased message traffic and confusion on the part of the public.<sup>5</sup>

4. Entire Country Code/County “Triggers”

In its Joint Comments, the State Associations opposed the implementation of both the entire country code and corresponding county code triggers. According to comments filed by TFT, Inc., a manufacturer of EAS equipment, the addition of an entire country code would not require any equipment modifications. The State Associations are willing to support the adoption of this code if, and only if, it does not require additional cost to broadcasters. The State Associations request that the Commission seek out comment from other equipment manufacturers in order to have a fully developed record as to the cost of adding the “entire country code.”

---

<sup>4</sup> SBE Comments, at 14.

The State Associations continue to oppose the adoption of the NWS “triggering” proposal, however. The record in this proceeding has not demonstrated that a county trigger is necessary or that it can be implemented without additional cost. Several commentators noted that the trigger would actually require major modifications.<sup>6</sup> TFT, Inc. also noted that NWS’s triggering proposal would actually cause complications to existing EAS encoder/decoders.

5. Use of Additional Combinations in “CCC” Portion of Location Codes

The State Associations reiterate their opposition to customized location coding. Not only would the use of additional combinations be burdensome and time-intensive, but, as other commentators have also noted, adopting this change would require a modification to every existing EAS unit.<sup>7</sup> Consumer grade weather radios would also have to be recalled and replaced at a great cost.

6. Originator Codes

In its comments, NWS rescinded its request to have its originator code changed to NWS, accepting that the revision is not as feasible as it might have once seemed. Thus, the State Associations request that the Commission retain WXR as the originator code for NWS.

7. Equipment Authorization

As explained in its initial Joint Comments, the State Associations support the Commission’s proposal to amend the EAS rules to provide that any modifications to existing authorized EAS equipment necessary to implement any revisions in EAS codes by the

---

<sup>5</sup> See Comments of TFT, Inc., at 5.

<sup>6</sup> Comments of James Gorman, at 2; Comments of Seven Ranges Radio Company, Inc., at 13; Comments of the State of Ohio Emergency Management Agency, at 3.

Commission be deemed Class I permissive changes that do not require a new application for and grant of equipment certification. Commentators generally supported this position.

Several commentators, however, expressed the same concerns that the State Associations did regarding the Commission's alternate proposal to allow changes or additions to the EAS codes without Commission action.<sup>8</sup> As one EAS equipment manufacturer discussed, there are situations in which EAS equipment purchased in one location is moved to a different geographic area. Allowing for local definition of event codes could, therefore, not only cause confusion but could result in potential errors in transmitting emergency messages. Therefore, it is essential that uniformity and interoperability of EAS equipment be maintained.

8. RMT Relay Window

Consistent with the State Association's position, commentators overwhelmingly agreed that increasing the relay window from 15 minutes to 60 minutes for the EAS Required Monthly Test is a needed and welcomed improvement. As noted by NAB, Cox Communications, SBE, and others, such a change would improve broadcasters' flexibility, minimize program disruptions, and promote voluntary EAS participation on the state and local level.<sup>9</sup>

9. Modulation Levels

The State Associations still support the Commission's proposal to reduce the modulation level of the EAS codes from 80% to 50% of full channel modulation limits. NAB and SBE also

---

<sup>7</sup> SBE Comments, at 15; Comments of Radio Shack, at 4.

<sup>8</sup> See e.g., SBE Comments, at 7.

<sup>9</sup> NAB Comments, at 6; Salem Communications Corporation Comments, at 1; Cox Broadcasting, Inc. Comments, at 7.

gave support for this change.<sup>10</sup> Radio Shack expressed concern that consumers living in “fringe areas” would not receive EAS alerts on their weather areas should the modulation level be decreased. Accordingly, we support SBE’s modification, explained in its comments, that would amend the corresponding rule so as to require that the modulation level be at the maximum possible modulation level but in no case be less than 50%.

10. Text Transmission Protocol

Those who filed comments on this particular proposal generally agreed that further study is required before the Commission can make a decision on a standard protocol for text transmission.<sup>11</sup> The State Associations continue to support the use of a local event code (TXT) to be used for evaluating different text transmission protocols. As Cox noted in its comments, the best way to eventually attain an industry standard for text transmissions is to allow local experimentation in this area.<sup>12</sup>

11. Co-Located Stations

The State Associations initially supported SBE’s proposal to amend Part 11 to provide that, where more than one of the co-owned and co-located broadcast stations are designated as key stations or systems, the common EAS equipment must be configured such that the EAS message of one key station or system is either simulcast or relayed by the remaining key station(s) or system(s). According to SBE, since EAS equipment does not provide for the relay of a message originated by itself, co-located key stations that do not simulcast program originations must originate tests and alerts separately. As a result, some stations in the EAS

---

<sup>10</sup> NAB Comments, at 6; SBE Comments, at 1.

<sup>11</sup> Cox Broadcasting Comments, at 5.



relay web end up airing both messages. Although the State Associations agree that it is essential that only one copy of an EAS message be sent, the State Associations, in their Joint Comments, stressed that they would not support this requirement if it resulted in increased costs to affected stations. According to comments filed by TFT, SBE's proposed modification would necessitate a major redesign of EAS encoder/decoders. They estimate that the per unit cost could easily exceed \$500. If this is the case, the State Associations oppose this rule change.

12. Costs to Broadcasters of Implementing EAS Changes

In their comments, NAB urged the Commission to refrain from taking any final action in this proceeding until it has obtained reasonably accurate cost information from each manufacturer. The State Associations support NAB's position and asks that the Commission solicit cost data from those manufacturers who did not file comments and then place that information in the record. The State Associations also support NAB's request that the federal government contribute financially to any proposed EAS upgrades.

13. EAS Patent Issue

In its comments, NAB notes that the patent for the EAS equipment that broadcasters were required to purchase remains in dispute. As a result, broadcasters have been faced with the dilemma of deciding between paying thousands of dollars in patent license fees to Quad Dimensions, Inc. ("QDI"), the company that claims to hold the patent rights to EAS equipment, and adhering to Commission regulations. Accordingly, the State Associations support NAB's request that the Commission resolve this issue so that broadcasters are not caught in the middle and required to infringe third-party's patent in order to comply with Commission rules. In the

---

<sup>12</sup> Id.

alternative, the State Associations ask that the federal government either seek a blanket patent license or subsidize broadcasters for the cost of a patent license agreement with QDI as advocated by NAB.

14. Cable Overrides

In its comments, NAB asks the Commission to use the instant proceeding to revise its EAS Rules to mandate only “selective override” of broadcast stations. Specifically, NAB requests that the Commission mandate cable operators’ use of a filtering system that would allow a cable operator to omit certain channels during an EAS interruption. This would ensure that the viewing public receives EAS alerts from its local broadcaster. The State Associations believe that such a mandate is essential and would enhance public safety by ensuring that local viewers are given access to critical emergency information. The broadcast industry has spent millions of dollars in developing high, state of the art, facilities to assist in weather detection for the safety of the citizens within their viewing areas. When a cable system overrides emergency information provided by stations, the cable system effectively cancels out broadcast programming at its highest and best service to the prejudice of the viewing audience. Thus, the Commission should take advantage of this proceeding and revise its rules accordingly.

### **III. CONCLUSION**

Based on the foregoing, the State Associations respectfully request that the Commission resolve the issues raised in its NPRM in this proceeding consistent with their Joint Comments and these Joint Reply Comments.

Respectfully submitted,

**NAMED STATE BROADCASTERS  
ASSOCIATIONS**

By: 

Richard R. Zaragoza  
Dawn Sciarrino  
Millie Domenech  
SHAW PITTMAN  
2300 N Street, N.W.  
Washington, D.C. 20037  
(202) 663-8000

Their Attorneys

Dated: July 11, 2001

Document #: 1135251 v.2